formatory are exercising disciplinary, not judicial, powers; and statutes conferring such powers do not impose judicial duties on non-judicial bodies. *In re Cassidy,* 13 R. I. 143; *In re Murphy,* 62 Kan. 422, 63 Pac. 428.

In Illinois, where the courts have no discretion to sentence to the penitentiary instead of to the reformatory, the contrary is held. *People* v. *Mallary,* 195 Ill. 582, 63 N. E. 508, 88 Am. St. Rep. 212; *In re Dumford,* 7 Kan. App. 89, 53 Pac. 92, *contra,* cited in *Pellissier* v. *Reed,* has been overruled by Murphy's case, *supra.*

Where a statute provides either a workhouse sentence or a longer reformatory sentence for the same offense, and a prisoner is sentenced to the reformatory, from which in the interests of discipline he is temporarily removed to the workhouse by the reformatory authorities, he is not entitled to discharge even after serving in the workhouse the full term of the sentence to that institution prescribed by law. *In re Bonn,* 17 R. I. 572, 23 Atl. 1017. In *Stagway* v. *Riker* (N. J.), 86 Atl. 440, where a prisoner was transferred to the penitentiary by the commissioners of the reformatory, it was held that the statute authorizing such transfer is constitutional. In neither of these cases, however, was the question of conferring judicial powers on non-judicial bodies raised.

It is not an assumption of judicial powers for the board of managers of a reformatory, when empowered by statute, to release a prisoner on parole or terminate his confinement altogether. *State* v. *Page,* 60 Kan. 664, 57 Pac. 514.

CONTEMPT—DISRESPECT TO THE JURY.—An attorney in his opening statement remarked to the jury: "Lawyers usually close their statements of this kind that they expect a verdict at the hands of the jury. I do not expect more than a hung jury here against the defendant. If this case were in Dillon, Helena, Billings, Missoula, I would"—but here he was stopped by the court. *Held,* the statements were disrespectful to the jury and punishable as contempt. *In re Maury* (C. C. A.), 205 Fed. 626.

The power to punish summarily for contempt is inherent in every court. *Ex parte Terry,* 128 U. S. 289. Where the tribunal is created by the constitution it cannot be deprived of this power by legislative action. *Carter's Case,* 96 Va. 791, 32 S. E. 780, 45 L. R. A. 310, 4 VA. LAW REG. 822, and note.

The term court in its broadest significance denotes a justice-dispensing organism, which may be composed of the judge and jury, either petit or grand jury. Contempt of any component part is contempt of the whole. Defamatory statements concerning the judge constitute contempt of court. *United States* v. *Gehr,* 116 Fed. 520. And so do any wilful and contemptuous acts committed in the presence of the grand jury. *In re Tyler,* 64 Cal. 434, 1 Pac. 884. It would seem to follow that statements disrespectful to the petit jury constitute contempt of court.

CONTRIBUTORY NEGLIGENCE—DOCTRINE OF LAST CLEAR CHANCE.—In an action by an employee to recover damages of a railroad company for personal injury, the lower court refused to charge that although the

plaintiff was negligent in placing himself in a position of danger, still if the defendant knew, or by the exercise of ordinary care might have known, that the plaintiff was in such dangerous place, defendant was bound to use reasonable care to avoid the consequences of plaintiff's negligence. *Held,* such refusal to charge was not erroneous. *Kinney* v. *St. Louis & S. F. R. Co.* (Okl.), 133 Pac. 180.

The doctrine of "last clear chance" as a limitation of the rule of no recovery where both parties are at fault, seems here ignored, inasmuch as the court holds it to be necessary that the perilous position of the plaintiff be actually known, or that the circumstances are such that knowledge will be presumed, before a recovery by the plaintiff can be had. This is the rule in many jurisdictions. *Cullen* v. *Railroad Co.,* 8 App. D. C. 69; *Denver, etc., Transit Co.* v. *Dyer,* 20 Col. 132, 36 Pac. 1106. Other jurisdictions impose liability upon the defendant, if he knew, or by the exercise of reasonable care might have known, of plaintiff's peril, and failed to exercise reasonable care to prevent the injury. *Klockenbrink* v. *Railroad Co.,* 81 Mo. App. 351; *Higgins* v. *Wilmington City R. Co.,* 1 Marv. (Del.) 352, 41 Atl. 86; *C. & O. R. Co.* v. *Corbin,* 110 Va. 700, 67 S. E. 179. If the plaintiff's negligent act though preceding that of the defendant, continues up to the time of the injury, there can be no recovery. *So. Ry. Co.* v. *Bailey,* 110 Va. 833, 67 S. E. 365. Some courts, while not denying the doctrine of last clear chance hold that in the case of trespassers, the railroad company owes no duty to keep a lookout, but is bound only to refrain from willful or wanton injury. *New York, etc., R. Co.* v. *Kelly,* 35 C. C. A. 571, 93 Fed. 745. When plaintiff's dangerous position is known there is no necessity to invoke the doctrine of last clear chance, for then, if the defendant does not use due care the injury can only be the result of a reckless, wanton or willful disregard of the rights of others; here the doctrine of contributory negligence has no place whatever, and the defendant is responsible for the injury he inflicts irrespective of the fault which placed the plaintiff in the way of such injury. *Cullen* v. *Railroad Co., supra.*

CORPORATIONS—PUNITIVE DAMAGES.—Owing to gross negligence of defendant's servants, two wagons belonging to the plaintiff were destroyed. *Held,* the defendant is liable only for compensatory and not punitive damages. *Great Western Ry. Co.* v. *Drorbaugh* (Col.), 134 Pac. 168.

The Supreme Court of the United States maintains that the question, as to whether a corporation is liable in punitive damages for the acts of its servants, is not one of local law but of general jurisprudence upon which the federal courts may exercise their own judgment without reference to the state decisions and that a corporation can be held liable in punitive damages only in those cases in which it participated in the wrong either by authorizing, approving or ratifying the act of its servant before or after its commission and then only in those cases in which the servants themselves would be liable in punitive damages. *Lake Shore, etc., R. Co.* v. *Prentice,* 147 U. S. 101.

The rule of the state courts is similar to that of the Supreme Court in regard to authorized or ratified acts. *Kutner* v. *Fargo,* 20 Misc. Rep.